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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,018	02/01/2001	Eric G. Suder	16312-P005US	7490
7590	07/20/2004		EXAMINER	
Kelly K. Kordzik Suite 800 100 Congress Avenue Austin, TX 78701			VANDERPUYE, KENNETH N	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/775,018	Applicant(s) SUDER ET AL.
	Examiner Kenneth N Vanderpuye	Art Unit 2661

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 23-56 and 67-77 is/are allowed.
- 6) Claim(s) 1-5,21 and 57-66 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: ____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date: ____.	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 59-64, 66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 58 recites the limitation "the monitoring circuit" in 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al.(5,751,791).

With regards to claims 1, Chen teaches a system comprising: a hub(Fig. 1@90), a multimedia server(Fig. 1@92), a telephony device coupled to the hub(Fig. 1@80), and a first network device coupled to the hub through the telephony device(Fig. 1@70), wherein the telephony device includes circuitry for throttling data sent from the first network device(the telephony device used to dial up the connection controls the data rate at 56kbps over the link).

Claim 2 is rejected because Chen teaches a second network device connected to the hub, wherein data sent from the first network device is addressed for transmission to the second network device(Fig. 1@70c, the system in Fig. 1 is set up in such a way that enables device 70c to communicate with device 70)

Claims 3, 5 are rejected because all devices are all coupled together via an ISDN network, BRI, PRI).

Claim 21 is rejected because in Chen communication is realtime and the telephony device maintains the data rate at 56kbps.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 57-58, 65 are rejected under 35 U.S.C. 102(e) as being anticipated by Edelson et al.(6,504,926)

With regards to claim 57 Edelson teaches an IP telephony device comprising:

an input data port for receiving data(Fig. 2@23 microphone), wherein the data is addressed for transmission to a location other than the IP telephony device(Fig. 2 data being sent to the internet) ; circuitry for communicating information to and from the IP telephony device(Fig. 2, circuitry in the personal computer supports bi-directional communication) and circuitry for sufficiently throttling the data so that the communication of the information can be performed real-time. (inherently taught because voice data is being sent out realtime).

Claim 58 is rejected because the IP telephony device communicates using IP rptocol (Fig. 2@31).

Claim 65 is rejected because Edelson teaches an IP telephony device further comprising: a microphone, a speaker and circuitry for communicating audio information to the speaker(Fig. 2 @23, 25, 26)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. in view of Hung et al.(6,760,429)

With regards to claims 4, 6 Chen fails to teach a TCP/IP network or the multimedia server and the telephony device communicating using IP protocol. The network in Chen is a packet network however it is not TCP/IP.. Hung et al teaches an IP network with a telephony device and a multimedia sever communicating using TCP/IP protocol. It would have been obvious to one of ordinary skill in the art to combine Chen with Hung for the purpose of sending multimedia messages over an IP network. The

motivation being the use of a connection oriented network for multimedia communications.

***Allowable Subject Matter***

Claim23-56, 67-77 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose telephone number is 703-308-7828. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KNV  
7/9/04



KENNETH VANDERPUYE  
PRIMARY EXAMINER